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SB 660 (Kuehl)

Parental Right to Be Present During Questioning

Background:

Each year, hundreds of school children are questioned by police at school, often without their parents' knowledge. Most parents believe that they have a statutory or constitutional right to be present with their child during police questioning at school, but they do not.

14 years ago, then-Assembly Member Bill Jones carried a measure that was not signed into law that would have required a school principal to notify a pupil of his or her right to request the presence of a parent or guardian during any interrogation by a peace officer. It also would have required a principal to notify parents or guardians orally and in writing if their child had been interrogated by a peace officer during school hours.

In 1998, then-Assembly Member Kerry Mazzoni (D) authored AB 2501, which would have required parents of elementary school students to give oral permission before their children could be interrogated by a peace officer and gave parents the right to be present during the interrogation. Under this measure, high school students would have been notified of their right to have a parent or other adult present during questioning. AB 2501 passed with strong bi-partisan support, but was vetoed by then-Governor Wilson. Former Assemblymember Darrell Steinberg's AB 1012 passed the Legislature in 2004 but was vetoed by Governor Schwarzenegger.

This issue will remain on the legislature's agenda until the matter is appropriately addressed. Several school districts, including San Francisco, Oakland and Santa Monica-Malibu Unified School Districts, have recently begun crafting district policies to require parental notification. The rights of parents should not, however, depend upon such a piecemeal approach.

Bill Summary

SB 660 provides a means for parents, schools and law enforcement to work together by furnishing parents the opportunity to be present during the questioning of their child at school. Specifically, this bill creates two different levels of protection for minors.

Under SB 660, the principal or his or her designee would be required to obtain permission from an elementary school child's parent or guardian before police could interrogate the child. If the parent expresses a desire to be present during the interrogation, the questioning would not begin until the parent is present. For high school students, the principal or their designee would be required to inform the student that he or she has the right to request that a parent or trusted member of the school staff be present during the questioning.

SB 660 also allows for circumstances that may call for the immediate interview of a child without the parental notification requirement:

- The peace officer reasonably believes that, due to exigent circumstances, a delay in questioning will materially interfere with the investigation and pose a substantial risk that a suspect may not be apprehended or prosecuted in a timely manner.
- The peace officer reasonably believes there is a substantial risk of immediate personal injury or substantial property damage.
- The minor pupil being questioned is suspected of being a victim of child abuse.
- The pupil is being questioned about criminal activity of the parent or person who otherwise would be present during the questioning.
- The pupil is on probation or parole and is being questioned by a probation or parole officer.

SB 660 is sponsored by the California PTA and has strong bi-partisan support.